

FILED

FEBRUARY 20, 1986

NEW JERSEY STATE BOARD  
OF MEDICAL EXAMINERS

STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF THE SUSPENSION :  
OR REVOCATION OF THE LICENSE OF: :

VALENTIN DIAZ, D.C. :  
LICENSE NO. 1526 :

TO PRACTICE CHIROPRACTIC :  
IN THE STATE OF NEW JERSEY :

Administrative Action

AMENDED FINAL DECISION AND ORDER

This matter was opened to the New Jersey State Board of Medical Examiners by way of Complaint filed September 13, 1985 by Joan D. Gelber, Deputy Attorney General for the Attorney General of New Jersey. The complaint alleged that respondent had entered a plea of guilty to one count of a criminal indictment alleging conspiracy in the second degree involving insurance fraud. That count of the indictment specified with reference to Doctor Diaz that on or about March 6, 1981 he signed an attending physician's report for one Jose Guerra, that on or about January 13, 1981, he signed an attending physician's report for one Miguel Cardoso. The complaint further alleged that he created files and bills for non-existent patients, falsified the number of actual patient visits and backdated visits and invoices so as to permit numerous thefts by deception from insurance companies.

The complaint further alleged that respondent was sentenced to three (3) years of imprisonment, assessed a fine of \$25,000 and

a V.C.C.B. penalty of \$25.00. It was later learned that he was released from prison after serving only three and one half (3 1/2) months, into the Intensive Supervision Program (ISP). The conviction was alleged to constitute grounds for the suspension or revocation of the license of Dr. Diaz pursuant to N.J.S.A.45:1-21(f) as a crime of moral turpitude and as a crime relating adversely to the practice of medicine.

Dr. Diaz, represented by Attorney Daniel K. Newman, Esq., indicated to the Board that he was not contesting the fact of the criminal conviction and requested therefore to make a presentation in mitigation of penalty.

A final hearing was held in this matter on December 11, 1985, at which time respondent appeared with his counsel and the State was represented by Joan D. Gelber, Deputy Attorney General. Marked into evidence without objection as S-1 was Count One of Indictment No. S.G.J. 108-83-1, to which Dr. Diaz pleaded guilty; S-2 was the Judgment of Conviction and Order of Commitment regarding Dr. Diaz; S-3 was a transcription of a statement given under oath by Dr. Diaz voluntarily to State Police Investigators subsequent to his arrest and D-1 was a statement from the Director of the Intensive Supervision Program which indicated all of the requirements of supervision which must be met by participants in the program.

It appears from the documents submitted and testimony produced before the Board that Dr. Diaz began his practice as a Chiropractor in 1977, and within three (3) years he began contact with a law firm involved in insurance fraud and willingly entered

into the conspiracy to defraud insurance companies for which he was convicted. He admits that in the beginning he added visits here and there and backdated visits in order to help patients qualify for a minimum amount of medical expenses necessary to qualify for the threshold to bring a lawsuit following an accident. He further admits that what started out as a small practice of fraud became very large in that he created files on people that he had never seen, he made up medical reports out of whole cloth, he made up medical records for people he did not even know, and that in fact he created, enlarged, and totally fabricated bills with the intent to allow the lawyers involved to submit completely fraudulent claims.

Dr. Diaz even concedes that at one point the majority of his patients were people who were referred to him by the law firm and many were involved in fraudulent activity. He further admits that in mid-1981 two (2) individuals connected with the law firm surprised him and gave him two (2) envelopes containing large checks as a gift for patients that Dr. Diaz never knew about and for whom he never wrote reports, which apprised him of the fact that the law firm was forging his name to medical reports and making claims to the insurance company. Yet Dr. Diaz acknowledges that he continued to go along with the scheme even with this knowledge.

Finally, Dr. Diaz admits that for at least one physician, a Dr. Olivera, he was asked to prepare medical reports for him and his relatives, indicating that they were involved in accidents,

which was in fact not the case, and Dr. Diaz responded by creating these fraudulent reports.

Dr. Diaz presented testimony to the Board indicating that he was the only individual of all those indicted who cooperated with the State of New Jersey and testified in court on behalf of the State involving this conspiracy. He also had made complete restitution of \$10,000 to the Allstate Insurance Company, served three and one half (3 1/2) months of a three (3) year sentence of incarceration and was released to the Intensive Supervision Program, representatives of which testified on his behalf regarding his exemplary behavior as a member of the program. Dr. Diaz was further sentenced to a fine of \$25,000 which was reduced to \$7,500 by the sentencing judge. Dr. Diaz gave testimony enunciating his sorrow for what he had done. He explained for example that he knew what he did was wrong, that he knew it at the time but just couldn't get himself disentangled from the situation, and he explained that he would have had to create a scandal involving many people and therefore did not turn them in. Dr. Diaz testified as did the representative of the ISP that he is monitored twenty-four (24) hours a day, that he has a 10:00 p.m. to 6:00 a.m. curfew during which he must remain in his home and is checked on a random basis, that he is on a strict budget of personal and business items, that he must diary what he does hour by hour, that he participates in group and individual counselling sessions, that he may not leave the State, that there are a minimum of twenty (20) contacts per month with an Intensive Supervision Officer, that he engages in at least

sixteen (16) hours of community service per month and must maintain full-time employment in order to stay in the program. He also must submit to random monitoring for abuse of drugs and alcohol, although there was never any allegation against him involving drugs or alcohol. Dr. Diaz indicated that he has engaged in the practice of Chiropractic since his release from prison in August, 1985.

Deputy Attorney General Gelber stressed the need for a sentence including deterrence, protection of the public and punishment of the individual for wrongful conduct. The sentencing judge pointed out that the gravamen of this offense beyond outright dishonesty, was the violation of a sacred trust that our society places in people of professional stature. Gelber indicated that Dr. Diaz along with other defendants to the conspiracy had been denied in their request to the sentencing judge that their guilty pleas not be admissible in other civil proceedings, and specifically that the sentencing judge indicated that public policy demands significant sanctions against a person whose conduct reflects badly on the profession. Gelber explained that the fraudulent depletion by respondent of the public's money in the form of their insurance premiums which are intended to care for and reimburse those who have experienced significant medical expenses involving accidents, was grossly incompatible with the standards of responsibility and integrity required of a physician in this State.

The Board has considered the criminal conviction which it finds involves moral turpitude and relates adversely to the pro-

fession, and has considered all information submitted in mitigation of penalty. The Board has also taken into account the need for disciplinary proceedings to balance the factors of punishment of this offender, the potential for his rehabilitation, and the need for deterrence of others from similar conduct. In light of all the above,

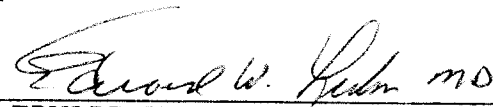
IT IS ON THIS 14<sup>th</sup> DAY OF February, 1986,  
ORDERED:

1. That the license of respondent Valentin Diaz, D.C. to practice chiropractic in this State is hereby revoked effective January 1, 1986, based on his conviction of a crime of moral turpitude and one which relates adversely to the profession.

2. The Board of Medical Examiners will not entertain any application for reinstatement by Dr. Diaz unless he can demonstrate that he has not practiced chiropractic in any state of the United States for a minimum period of three (3) years, and has accumulated one hundred and fifty (150) hours of continuing medical education.

3. If reinstatement of the License of Dr. Diaz should occur, he must spend a minimum of two (2) years of practice under the direct supervision of a chiropractor licensed in New Jersey and acceptable to the Board, and must apply for such supervision approval prior to beginning practice.

4. Respondent shall comply with all parts of the Board directives applicable to disciplined licensee's attached hereto.



EDWARD W. LUKA, M.D., PRESIDENT  
STATE BOARD OF MEDICAL EXAMINERS

FUTURE ACTIVITIES OF MEDICAL BOARD LICENSEE WHO HAS BEEN DISCIPLINED

- a) A practitioner whose license is suspended or revoked or whose surrender of license with or without prejudice has been accepted by the Board:
- 1) Shall desist and refrain from the practice of the licensed profession in any form either as principal or employee of another.
  - 2) Shall not occupy, share or use office space in which another licensee practices the profession.
  - 3) Shall desist and refrain from furnishing professional services, giving an opinion as to the practice or its application, or any advice with relation thereto; or from holding himself or herself out to the public as being entitled to practice the profession or in any way assuming to be a practicing professional or assuming, using or advertising in relation thereto in any other language or in such a manner as to convey to the public the impression that such person is a legal practitioner or authorized to practice the licensed profession.
  - 4) Shall not use any sign or advertise that such person, either alone or with any other person, has, owns, conducts or maintains a professional office or office of any kind for the practice of the profession or that such person is entitled to practice, and such person shall promptly remove any sign indicating ability to practice the profession.
  - 5) Shall cease to use any stationery whereon such person's name appears as a professional in practice. If the practitioner was formerly authorized to issue written prescriptions of medication or treatment, such prescriptions shall be destroyed if the license was revoked; if the license was suspended, the prescriptions shall be stored in a secure location to prevent theft or any use whatever until issuance of a Board Order authorizing use by the practitioner. Similarly, medications possessed for office use shall be lawfully disposed of, transferred, or safeguarded.
  - 6) Shall promptly notify by telephone or mail all patients who have been under such practitioner's care within the preceding six months of his inability to provide further professional services and shall advise said patients to seek health care services elsewhere. When a new professional is selected by a patient, the disciplined practitioner shall promptly deliver the existing medical record to the new professional, or to the patient if no new professional is selected by the patient, without waiving any right to compensation earned for prior services lawfully rendered.
  - 7) Shall not share in any fee for professional services performed by any other professional following this suspension, revocation or surrender of license, but the practitioner may be compensated for the reasonable value of the services lawfully rendered and disbursements incurred on the patient's behalf, prior to the effective date of the suspension, revocation or surrender.
  - 8) Shall promptly deliver to the Board the original license and current biennial registration and, if authorized to prescribe drugs, the current State and Federal Controlled Dangerous Substances registrations.

b) A practitioner whose license is surrendered, revoked, or actively suspended for one year or more:

1) Shall promptly require the publishers of any professional directory and any other professional list in which such licensee's name appears, to remove any listing indicating that the practitioner is a licensee of the New Jersey State Board of Medical Examiners in good standing.

2) Shall promptly require any and all telephone companies to remove the practitioner's listing in any telephone directory indicating that such practitioner is a practicing professional.

c) With respect to all Board licensees whose practice privileges are affected by sections (a) or (b) above, such practitioner:

1) Shall within 30 days after the effective date of the practitioner's suspension, revocation or surrender of license, file with the Secretary of the Board of Medical Examiners a detailed affidavit specifying by correlatively lettered and numbered paragraphs how such person has fully complied with this directive. The affidavit shall also set forth the residence or other address and telephone number to which communications may be directed to such person; any change in the residence address or telephone number shall be promptly reported to the Secretary.

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